

Amendment A
Application. No. 10/719,864
Page 8 of 11

REMARKS/ARGUMENTS

The abstract and claims have been amended to address minor informalities. Sixteen claims remain pending in the application: Claims 1-16. Claim 4 is amended herein.

Claims 1-16 have been copied from USPN 6,497,292 of Rovelli (herein the '292 patent) and USPN 6,505,686 of Rovelli (herein the '686 patent) for the purposes of an interference. Specifically, Claims 1, 2, and 3 of the present application correspond to claims 1, 14, and 19, respectively, of the '292 patent. Additionally, claims 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16 of the present application correspond to claims 1, 7, 26, 28, 29, 30, 31, 32, 33, 35, 36, 37, and 38, respectively, of the '686 patent.

Claim Rejections - 35 U.S.C. §102(a)

1. Claims 1-16 stand rejected under 35 U.S.C. § 102(a), as being anticipated by U.S. Patent No. 6,497,292 to Rovelli.

Applicants note that the earliest effective filing date of the '292 patent is April 6, 2001 (incidentally, this is the earliest effective filing date of the '686 patent as well). As attested to in the "Declaration of Casey L. Kelly Under 37 CFR 1.131" (herein the Declaration) attached hereto, Kelly "conceived and reduced to practice [the inventive subject matter of the present application]...well prior to April 6, 2001...¹. Further, Frank Rovelli, the named inventor of the '292 patent (and the '686 patent) "derived the invention taught in the '292 patent (and the '686 patent) from [Casey

¹ see paragraph 2 of the Declaration

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Amendment A
Application. No. 10/719,864
Page 9 of 11

Kelly]². Thus, because Kelly invented and reduced to practice the invention taught in the '292 patent prior to the earliest effective filing date of the '292 patent and Rovelli derived the invention taught and claimed in the '292 patent from Kelly, the inventive subject matter of the present application was not "known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent³." In any case, Rovelli did not know or use the invention prior to Kelly's invention date and the subject matter of the '292 patent was not patented or described prior to Kelly's invention date.

Therefore, it is respectfully requested that the present rejection according to 35 USC 102(a) be withdrawn as USPN 6,497,292 cannot be relied on for a proper 102(a) rejection for at least the reason state hereinabove.

Objection to Claims 4 and 14

2. Claims 4 and 14 are objected to by the Examiner for various informalities.

Specifically, the Examiner has indicated that in claim 4, line 4 "and" should be changed to -an- and, in line 10, "flows" should be changed to -flow-. As requested by the Examiner, "and" in line 10 of claim 4 of the present application was changed to -an-. Additionally, "flows" was amended to -flow- as requested by the Examiner. Therefore, it is requested that the Examiner withdraw the objection to claim 4.

² see paragraph 5 of the Declaration
³ 35 USC 102(a)

Amendment A
Application. No. 10/719,864
Page 10 of 11

In claim 14, line 2, the Examiner has indicated that -a- should be inserted after "from." Applicant has made the amendment as requested by the Examiner to add -a- after "from" in claim 14, line 2 of the present application. Therefore, it is respectfully requested that the objection to claim 14 be withdrawn.

Objection to the Abstract

3. The Examiner has objected to the abstract. Specifically, the Examiner has indicated that "Described herein are methods" should be changed to -Methods-. Applicant has amended the abstract accordingly, therefore, it is respectfully requested that the objection be withdrawn.

Amendment A
Application. No. 10/719,864
Page 11 of 11

CONCLUSION

By way of this amendment, Applicant has made a diligent effort to address the rejection and objections raised by the Examiner. However, should there remain any outstanding issues that require adverse action, it is respectfully requested that the Examiner telephone Thomas Lebens at (805) 781-2865 so that such issues may be resolved as expeditiously as possible.

Respectfully submitted,

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Attachment: Declaration of Casey L. Kelly Under 37 CFR 1.131

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